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Letter from the Secretary of War, transmitting proceedings, under joint resolution of Congress of the 13th of February last, in relation to the purchase of the island at the confluence of the St. Peter's and Mississippi Rivers

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PURCHASE OF ISLAND—CONFLUENCE OF THE ST. PETER'S
AND MISSISSIPPI RIVERS.

LETTER

FROM

THE SECRETARY OF WAR,

TRANSMITTING

Proceedings, under joint resolution of Congress of the 13th of February last, in relation to the purchase of the island at the confluence of the St. Peter's and Mississippi rivers.

FEBRUARY 12, 1840.

Referred to the Committee on Military Affairs.

WAR DEPARTMENT, *January 4, 1840.*

SIR: I have the honor to report the proceedings of this department under the joint resolution of Congress of the 13th of February last.

The resolution authorizes the Secretary of War "to contract with J. B. and P. Ferribault for the purchase of the island at the confluence of the St. Peter's and Mississippi rivers, and to report his proceedings to Congress, subject to their approbation or rejection." Although it nominally confers authority only, yet it seems to carry with it an injunction, to make the contract; which was accordingly done on the 12th of March last, subject to the confirmation or rejection of Congress. A copy of the instrument is herewith transmitted, marked A. In submitting it for the action of Congress, I think it my duty to make the following statement of facts, which will aid in the attainment of a clear understanding of the subject.

The claimants base their right wholly upon a treaty or convention made by the late General Leavenworth, then lieutenant colonel commanding on the Upper Mississippi, with certain Sioux chiefs, on the 9th of August, 1820, a copy of which (No. 1) is submitted herewith. By this instrument, the Indians ceded to the United States a tract of land, reserving and granting to individuals named certain tracts, one of which is this island "to Pelagie Ferribault, wife of John Baptiste Ferribault, and to her heirs forever." It does not appear, on examination of the records of this department at that period, that Colonel Leavenworth was authorized to conclude such a treaty; the only authority vested in him was generally to hold treaties of friendship. Although this instrument is not draughted as treaties usually are, and is signed by Colonel Leavenworth as a witness merely, it must be considered as a treaty, ceding, as it does, the Indian interest in the lands desig-

nated to Colonel Leavenworth "for and in behalf of the United States, and for the sole and only use, benefit, and behoof of the said United States, forever," "in consideration of many acts of kindness received by said Indians from said Leavenworth, as agent of the United States Government, and such other compensation, if any, as the said Government may think proper to appropriate and give for the same." This, it appears, was the opinion entertained by the department at the time of its date. If it be regarded as a mere deed or grant, then no title to the lands passes under it; for the intercourse law of 1802, which was then in force, declares (section 12) "that no purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian, or nation, or tribe of Indians, within the bounds of the United States, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the constitution." Its ratification by the President and Senate was, therefore, indispensably necessary under this act to give it validity. And, aside from the requirements of law, it is obvious that the consent of the United States, in whom is the fee-simple, must be united to a conveyance by an Indian tribe, whose tenure is no more than that of occupancy, to perfect it. This confirmation was never given; but the agent for the Sioux was directed, on the 14th August, 1821, (No. 2,) to apprise the individuals concerned that the "reservations claimed under the treaty have no validity;" which he reports he did. The claim of the Ferribaults, depending, as it does, alone upon the recognition of this instrument, of course falls with it.

It may, perhaps, be worthy of observation, also, that "the Grand Soldier," at a conference held with Major Plympton, in July last, the substance of which was reduced to writing by the agent and transmitted by Major Plympton, (No. 9,) denied, in positive terms, that the Indians who signed the treaty with Colonel Leavenworth, of whom he was one, "gave Pike's island to Mrs. Ferribault, or any other person;" saying, "If you see it so on paper, we were deceived."

But, a still stronger and insuperable objection to the proposed purchase is found in the fact, that the United States already have a complete title to the island, as will appear from the following statement. A treaty was concluded in 1805, at the village of the Sioux, by Lieutenant Z. M. Pike, on behalf of the United States, with the chiefs and warriors of the Sioux nation, in which they ceded to the United States, as will be seen by the accompanying copy, (No. 3,) two tracts of land, one of which includes the island in question, and is designated as follows: "from below the confluence of the Mississippi and St. Peter's, up the Mississippi, to include the falls of St. Anthony, extending nine miles on each side of the river." The message of the President of the United States to the Senate, submitting it for their constitutional action, dated the 29th March, 1808, an extract from which will be found herewith, (No. 4,) shows that the main inducement for making this treaty was the favorable position of the land for a "military and commercial post for the United States." That the island is embraced within the limits of the cession is evident, from the statements of the Indian agent, of Major Plympton, (who has for a long time commanded or resided at Fort Snelling,) and of the attorney for the Ferribaults himself. The former says, (No. 9,) "I am of opinion that General Pike certainly intended that the said island should be included in his purchase, while in this country, in 1805; as the public land extends *two* miles below this island, on both sides of the river." Major Plympton asserts the

fact, (No. 9.) Colonel Sambaugh, the attorney for the Ferribaults, in a letter dated 17th January, 1838, to this department, (No. 11,) describes its location as follows: "The head of the island is separated from the walls of the fort by a small slough, about fifty yards in width. This slough, or natural canal, unites a small portion of the waters of the Mississippi and St. Peter's, about three-fourths of a mile above the junction of the two rivers. Thus, by damming this slough, or throwing a wall across it at both ends, the island can be made a part of the main land on the west side of the river, and will form an immediate connexion with the Indian country." It is between the falls of St. Anthony and the point indicated as "below the confluence of the Mississippi and St. Peter's rivers," and is so contiguous to the main land that it can be made a part of it by damming a small slough. Were the island (if it can properly be called an island) in the centre of the river, there might be some doubt whether the title to it would pass to the United States under Lieutenant Pike's treaty; as it is, there can be none. The Senate, on the 16th April, 1808, advised and consented to the ratification of the treaty, with the following amendment, viz: "After the word 'States,' in the second line of the second article, insert the following words: 'shall, prior to taking possession thereof, pay to the Sioux \$2,000, or deliver the value thereof in such goods or merchandise as they shall choose.'" It is stated by Major Plympton, (No. 9,) who was then stationed at that post, that "the Sioux received, in August, 1819, from the Government, the amount in goods stipulated in the treaty of Pike;" that the island has been used by the military, as belonging to the post, from that time to the present; and that he never knew, until within the last few months, that any individual pretended to claim it. Of the payment in 1819 nothing has been discovered upon the records of this department. An appropriation of the whole amount of the consideration, both principal and interest, (\$4,000,) was, however, made in 1838, and paid to the Indians in money. The stipulations of the treaty have thereby been fulfilled, and the title to the lands ceded by it, embracing this island, vests in the United States.

The accompanying documents, numbered from 1 to 11, inclusive, will aid in developing the facts herein stated.

I am, very respectfully, your obedient servant,

J. R. POINSETT.

Hon. R. M. T. HUNTER,

Speaker of the House of Representatives.

P. S.—I think it proper to add, that, when the treaty of September, 1837, was negotiating, a desire was expressed by the representative of the Ferribault claim to have a provision inserted on the subject; and that, apprehending difficulty or delay, I stated to him that the claim should not be impaired by the said treaty, but considered and decided as if that compact had not been made.

J. R. P.

A.

The Congress of the United States, by a joint resolution, which was approved on the 13th February last, authorized the Secretary of War "to

contract with J. B. and P. Ferribault for the purchase of the island at the confluence of the St. Peter's and Mississippi rivers, and to report his proceedings to Congress, subject to their approbation or rejection."

Whereas, on the 9th August, 1820, a grant was made and confirmed in council, at the cantonment of St. Peter's, by the Sioux, to "Pelagie Ferribault, wife of John Baptiste Ferribault, and to her heirs forever," of "the island at the mouth of the river St. Pierre, being the large island containing, by estimation, three hundred and twenty acres, and is the same island which is surrounded by the water of the Mississippi when that stream is higher than the river St. Pierre, and by the water of the said river St. Pierre when that stream is higher than the Mississippi:" And whereas the said J. B. Ferribault, and Pelagie, his wife, have, by their letter of attorney, dated 17th August, 1837, constituted and appointed Samuel C. Stambaugh, of Fort Snelling, and Alexis Bailly, of Indiana, their attorneys in fact, and, among other powers, conferred the following, in regard of a section of land and of said island: "In case any part of said land should be required for military purposes, then, and in that case, they are hereby empowered to make any arrangement for us which they may deem just and proper, and sign our names to any paper that may be required to promote the objects of said negotiation, as well as to do all other things touching the premises, which they may deem advantageous to us, as well as if we were personally present:" And whereas the authority of the Secretary of War extends only to contracting for the said island, subject to the future sanction or rejection of Congress, and the power of the said attorneys is confined to agreeing to sell, and does not embrace the ability to convey:

Now be it known that I, Joel R. Poinsett, Secretary of War of the United States, have agreed with the said Samuel C. Stambaugh and Alexis Bailly, for and on behalf of their constituents, J. B. Ferribault, and Pelagie, his wife, that I will, for and on behalf of the United States, pay for the title of the said J. B. Ferribault, and wife, to the said island, the sum of twelve thousand dollars; provided this agreement shall be ratified by the Congress of the United States, according to the provisions of said joint resolution, and an appropriation of said sum be made to carry it into execution, which I will recommend and ask for at the next session. In consideration whereof, the said Samuel C. Stambaugh and Alexis Bailly, for and on behalf of their said constituents, covenant and engage that, if this agreement shall be ratified by Congress, and the sum of twelve thousand dollars be appropriated in fulfilment thereof, they will, before the said sum, or any part thereof, is demanded or received from the United States, procure a full power of attorney to convey said island to the United States, and make a deed therefor in pursuance and by virtue thereof, or the deed of conveyance of the said J. B. Ferribault, and Pelagie, his wife, for the said island to the United States; which, in either case, shall be delivered to the Secretary of War at or before the payment of the said consideration which shall be made to the said Ferribault, and wife, or to such person as they shall specially authorize for the purpose; the said power or deed to be executed and acknowledged according to law. It is further understood that this agreement, unless ratified by Congress at its next session, and an appropriation be then made for its execution, shall be void and of no effect.

In testimony whereof, the said Joel R. Poinsett, Secretary of War of the United States, and the said John Baptiste Ferribault, and Pelagie, his wife, by

their attorneys in fact, Samuel C. Stambaugh and Alexis Bailly, have hereto respectively set their hands and seals this 12th day of March, 1839.

J. R. POINSETT, [L. s.]
J. B. FERRIBAULT, [L. s.]
PELAGIE FERRIBAULT, [L. s.]

By their attorneys in fact,
S. C. STAMBAUGH, [L. s.]
ALEXIS BAILLY. [L. s.]

Sealed and delivered in presence of
T. HARTLEY CRAWFORD.

No. 1.

Be it remembered, that, on this ninth day of August, 1820, at the cantonment of the 5th regiment of infantry, the undersigned, chiefs, warriors, and headmen of the Sioux or Dahkotah nation of Indians, for themselves, their heirs, and their nation, have given, granted, conveyed, and confirmed, and by these presents do give, grant, convey, and confirm unto Henry Leavenworth, a colonel in the army of the United States, for and in behalf of the United States, and for the sole and only use, benefit, and behoof of the said United States, forever, the following tract of land, viz: Beginning on the southerly bank of the river St. Pierre, and running at right angles with said river, from the first bend below the village of the Black Dog and the White Bustard, three miles from the said river St. Pierre, into the prairie back from said river; thence, easterly, on a line parallel with the general course of the rivers Mississippi and St. Pierre, and three miles distant from the most southerly part of the St. Pierre and the Mississippi, to a place opposite to the Old Cave or Stone House, or the stone house next above Petit Corbeau's village; thence, to the Mississippi, opposite to said last-mentioned cave or stone house; thence, up the Mississippi and St. Pierre rivers, including all islands, to the place of beginning, be the same more or less—always excepting and reserving therefrom the following tracts, pieces, or parcels of land, viz: one mile square on the Mississippi, below the cantonment of the 5th regiment, commencing at the first high ground between the mouth of a small creek, which runs from the pond back of said cantonment into the river, opposite to a large island; thence, down the Mississippi, one mile; the other lines to be parallel, and one mile in length, each; which said tract of one mile square is hereby given, granted, and conveyed unto our friend and brother Duncan Campbell, and to his heirs forever.

Also, one other mile square, lying on the Mississippi, below and adjoining the last-mentioned tract—to be surveyed one mile parallel with the general course of the river, and to be included within parallel lines of one mile each in length; which tract, piece, or parcel of land is hereby given, granted, and conveyed unto Peggy Campbell, sister of said Duncan Campbell, and to her heirs forever: the said Duncan and Peggy being children of Mr. John Campbell, deceased, (formerly Indian agent of the United States,) by a woman of our nation.

Also, we do hereby reserve, give, grant, and convey to Pelagie Ferribault, wife of John Baptiste Ferrebault, and to her heirs forever, the island at the mouth of the river St. Pierre, being the large island, contain-

ing, by estimation, three hundred and twenty acres; and is the same island which is surrounded by the water of the Mississippi when that stream is higher than the river St. Pierre, and by the water of the said river St. Pierre when that stream is higher than the Mississippi: the said Pelagie Ferribault being daughter of François Kinie by a woman of our nation.

Which grant is made in consideration of many acts of kindness received by said Indians from said Leavenworth, as agent of the United States Government, and such other compensation (if any) as the said Government may think proper to appropriate and give for the same.

In witness whereof, we have hereunto set our hands and seals, the day and year first above written.

Petit Corbeau, his x mark.

Am-pa-to-tah-wah, or the Day that Belongs to Him, his x mark.

Anoketa, or Two Faces, his x mark.

Nuzuapee, or the Great Soldier, his x mark.

Peanduta, or the Inspired Warrior, his x mark.

Keiya, or Sun of the Wampum, his x mark.

Hundahahcow, or the Coming Sound, his x mark.

Towacokepa, or Fear Nothing, his x mark.

Tu-cas-kun-mane, or Son of the Black Soldier, his x mark.

Aketchetata, or Little Soldier, his x mark.

Soka, or the Dry, his x mark.

Wechawacandape, or the Son of the Dry, his x mark.

Wákeyasapa, or the Black Thunder, his x mark.

Ohenapaduty, his x mark.

Wawshaw, or Red Snow, his x mark.

Wakâozenjon, or the Lightning, his x mark.

Wâpâenduta, or the Red Stick, his x mark.

Kacatawechasta, or the Dead Ground Man, his x mark.

Chaendiscumane, or the Rolling Hoop, his x mark.

Kusapata, or the Burning Iron, his x mark.

Wechapetopa, or the Four Stars, his x mark.

Tokahaya, or the First Man, his x mark.

Teomenepée, or the Man About the House, his x mark.

Sealed and delivered in presence of—

H. Leavenworth, *Colonel U. S. Army.*

Law. Taliaferro, *Indian Agent, Upper Mississippi.*

Duncan Campbell, *Sioux Interpreter.*

J. B. Ferribault.

W. S. Foster, *Captain 5th Infantry.*

R. A. McCabe, *Lieutenant 5th Infantry.*

N. Clark, *Lieutenant 5th Infantry.*

P. R. Green, *Lieutenant 5th Infantry.*

John McCartney, *Lieutenant 5th Infantry.*

Jas. Hare, *Lieutenant 5th Infantry.*

No. 2.

DEPARTMENT OF WAR, August 14, 1821.

SIR: Your three letters of the 30th June have been received. I am glad to hear that a friendly understanding exists between the troops stationed at St. Peter's and the Indians; and I hope your efforts to produce a similar understanding between the Sioux and Chippewas will be successful. The measures which you have taken to drive out the British traders, who, you state, are carrying on a traffic with the Indians near the Big Stone lake, appear to be very proper, and are approved. It is contemplated, if the department possesses the means, in the course of the next summer, to explore the waters of the St. Peter's, with the view of making arrangements for the more effectual control over the Indian trade within our territory.

The treaty concluded with the Sioux nation, by Colonel Leavenworth, was not submitted to the Senate, as they had refused to ratify a treaty of a similar nature made by General Atkinson at the Council Bluffs; consequently the reservations claimed under the treaty have no validity, and you will accordingly so apprise the individuals concerned. It is presumed, however, that the Indians will not object to our using the land or its timber, so long as the present good understanding may exist between them and the Government.

I have directed a warrant to be issued in your favor for \$634, the amount of your estimate for the third quarter of the present year.

I have, &c.

J. C. CALHOUN.

LAWRENCE TALIAFERRO,
Indian agent, St. Peter's.

No. 3.

Whereas, at a conference held between the United States of America and the Sioux nation of Indians, Lieutenant Z. M. Pike, of the army of the United States, and the chiefs and warriors of the said tribe, have agreed to the following articles, which, when ratified and approved of by the proper authorities, shall be binding on both parties:

ARTICLE 1. That the Sioux nation grants unto the United States, for the purpose of the establishment of military posts, nine miles square at the mouth of the river St. Croix; also, from below the confluence of the Mississippi and St. Peter's, up the Mississippi, to include the falls of St. Anthony, extending nine miles on each side of the river. That the Sioux nation grants to the United States the full sovereignty and power over said districts forever, without any let or hindrance whatsoever.

ART. 2. That, in consideration of the above grants, the United States

ART. 3. The United States promise, on their part, to permit the Sioux to pass, repass, hunt, or make other uses of the said districts, as they have formerly done, without any other exception but those specified in article first.

In testimony hereof, we, the undersigned, have hereunto set our hands and seals, at the mouth of the river St. Peter's, on the twenty-third day of September, one thousand eight hundred and five.

Z. M. PIKE,

[SEAL.]

First Lieut., and agent at the above conference.

LE PETIT CORBEAU, his x mark. [SEAL.]

WAY-AGA-ENAGEE, his x mark. [SEAL.]

No. 4.

Extract from message of the President to the Senate, dated 29th March, 1808.

"Lieutenant Pike, on his journey up the Mississippi, in 1805-'6, being at the village of the Sioux, between the rivers St. Croix and St. Peter's, conceived that the position was favorable for a military and commercial post for the United States, whenever it should be thought expedient to advance in that quarter. He therefore proposed to the chiefs a cession of lands for that purpose. Their desire of entering into connexion with the United States, and of getting a trading-house established there, induced a ready consent to the proposition; and they made, by articles of agreement, now enclosed, a voluntary donation to the United States of two portions of land—the one, of nine miles square, at the mouth of the St. Croix; the other, from below the mouth of St. Peter's, up the Mississippi, to St. Anthony's falls, extending nine miles in width on each side of the Mississippi. These portions of land are designated on the map now enclosed.

"Lieutenant Pike, on his part, made presents to the Indians, to some amount. This convention, though dated the 23d of September, 1805, is but lately received; and although we have no immediate view of establishing a trading-post at that place, I submit it to the Senate, for the sanction of their advice and consent to its ratification, in order to give to our title a full validity on the part of the United States, whenever it may be wanting for the special purpose which constituted, in the mind of the donors, the sole consideration and inducement to the cession."

No. 5.

WASHINGTON, February 26, 1839.

DEAR SIR: With great reluctance I obtrude upon your time, so far as to solicit your attention to the purchase of Ferribault's island for part of the military reservation at Fort Snelling. The original grant was laid before you last year by the Commissioner of Indian Affairs, after he had made his report to you upon the "extract" submitted by Mr. Bailly and myself; which extract was given to Pelagie Ferribault by General Leavenworth, before he forwarded the original treaty to the department in 1820.

The letter written by me called your attention, at that time, to the circumstance of the Indians' desire to reserve the island in the sale they made to Government; and the reservation was not inserted in the treaty, by your promise that an arrangement would be made with Mrs. Ferribault, or that her claim should not be affected by the conditions of the treaty. If, therefore, Congress had decided that her title was not good, upon the evidence adduced, the island would, in good faith, revert to the Indians; and Mrs. Ferribault, who is an *Indian woman*, one of their own children, would *hold under them* as heretofore.

But I entertained no doubt, after the resolution authorizing you to purchase became a law during the present session, of the confirmation of the title to Madame Ferribault and her husband. Congress had the papers upon which the grant was founded before them, and they authorized by

law the purchase *from the proprietors* for certain military purposes. As the terms of the purchase have, under the law, to be submitted to Congress for its sanction or rejection, and an appropriation will be required, you will perceive the necessity of immediate action. I repeat, (with the approbation of Mr. Bailly, who is the son-in law of Madame Ferribault, and authorized to act with me,) my offer of last year, to dispose of the island for military purposes for the sum of \$12,000; and we are now ready to execute the necessary papers transferring the same.

In haste, very truly, your friend and obedient servant,

S. C. STAMBAUGH.

Hon. JOEL R. POINSETT.

No. 6.

WAR DEPARTMENT,
Office Indian Affairs, February 28, 1839.

SIR: I received, a few days ago, the joint resolution of the Senate and House of Representatives, authorizing the Secretary of War "to contract with J. B. and P. Ferribault for the purchase of the island at the confluence of the St. Peter's and Mississippi rivers, and to report his proceedings to Congress, subject to their approbation or rejection," which you referred to this office; and have deferred a report upon the title to the island, that I might get the original papers relating thereto.

They are not on file in this office, nor in the War Office proper. I sent to the Senate for them, it being supposed they might be on file in that body, but in vain. The report made by a committee of the Senate, on the 25th April, 1838, exhibits enough of the case to show how the facts are.

It seems at a council held at the St. Peter's cantonment on 9th August, 1820, twenty-two Indians (chiefs, it is presumed) signed, in presence of the late General Leavenworth and other United States officers, a grant in the following words: "Also we do hereby reserve, give, grant, and convey to Pelagie Ferribault, wife of John Baptiste Ferribault, and to her heirs forever, the island at the mouth of the river St. Pierre, being the large island containing, by estimation, three hundred and twenty acres, and is the same island which is surrounded by the water of the Mississippi when that stream is higher than the river St. Pierre, and by the water of the said river St. Pierre when that stream is higher than the Mississippi; the said Pelagie Ferribault being the daughter of François Kinie, by a woman of our nation."

As a principle of general observance, the United States, in my judgment, cannot recognise such grants. If they should be allowed, every tract of rich land, every water power, every mine, would be appropriated before the Government had extinguished the Indian title to any particular district or region. This case, however, occupies a position of its own. The Indian tenure is no more than that of occupancy, which, united with the ultimate fee-simple that is in the United States, makes a perfect title. The island is wanted for the purposes of the Government. To avoid delay, and difficulty, and controversy, it may be judicious (declaring, however, that this is not to be regarded as a recognition of such Indian grants; on the contrary, it is declared that they are invalid) to purchase it. All Indian claim will be put at rest, and the joint resolution of 13th February instant, with full knowledge of the facts in both Houses, seems, although it nominally confers au-

thority only, to carry with it an injunction to contract with J. B. and P. Ferribault for said island.

I therefore think, under all the circumstances, that an appropriation should be asked for, and the negotiation for the purchase opened.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

Hon. J. R. POINSETT, *Secretary of War.*

No. 7.

PRAIRIE DU CHIEN, April 19, 1839.

SIR: I am but just informed (not having noticed the several acts and joint resolutions passed at the last session of Congress) that \$26,000 has been appropriated to purchase Ferribault's alias *Pike's island*, for the use of the post at Fort Snelling, should the same be required for public purposes. This being the fact, it becomes my special duty to present for your consideration the following *facts*, in order to prevent a most palpable imposition on the Government. The island in question has had no tenants other than cattle and horses upon it for the last fifteen years—except, indeed, temporary Indian encampments, when not under water, for it often overflows at spring freshets.

The convention of Pike with the Sioux, in 1805, secured the lands about St. Peter's to the United States for military purposes. The treaty of Washington, of the 29th of September, 1837, explicitly takes all their lands east of the Mississippi, *and all the islands* in said river; and in October, 1838, the sum of \$4,000, paid at the agency at St. Peter's, by the military disbursing agent, I did believe had fully settled the limits of the military reservation around Fort Snelling.

In August, 1820, the late General Leavenworth held an unauthorized treaty with a few of the Sioux, in which it was stipulated to give *this island* to Mrs. Pelagie Ferribault, a half-blood Sioux, the wife of Jean B. Ferribault, of Canada; to Duncan Campbell, the present site of the American Fur Company's trading-post; and to Margaret Campbell, late Pizarre, the land ceded to S. Campbell by the treaty of 1837. Although I was a witness to the act of the General, I notified him that, in times of difficulty or danger from the tribes, the post would require the island (though small) as a place of safety for the public cattle and horses, (being directly under the guns of the fort;) and that a sense of duty induced me to oppose the cession as injurious to the future convenience and tranquillity of the general reservation; and at once, in a letter to the honorable John C. Calhoun, then at the head of the War Department, expressed my views and opinions; who promptly replied, and directed me to notify those persons claiming reservations under the convention referred to, that they would not be considered, the President having decided not to lay the treaty before the Senate. The individuals were duly apprized accordingly, and the matter was supposed to be at rest, until S. C. Stambaugh volunteered to become the agent of this fictitious claim. You will believe me, sir, that my only desire is for truth and fairness in all that concerns the Government.

With high respect, sir, I have the honor to be, your most obedient servant,

LAW. TALIAFERRO,

Indian agent at St. Peter's.

Hon. J. R. POINSETT, *Secretary of War.*

No. 8.

WAR DEPARTMENT,
Office Indian Affairs, June 1, 1839.

SIR: I am instructed by the Secretary of War to request that you will furnish the department with all the information you can obtain on the subject of the ownership and occupancy of Pike's or Ferribault's island. It appears that some doubts exist as to the individual in whom the title is vested.

A letter has recently been received from Major Taliaferro on the subject, and I would request that you furnish me with any information you may possess relative to it, the residence of Ferribault and wife, &c. A copy of Major T.'s letter is herewith transmitted, and perhaps a conference with him might be useful.

Very respectfully, your obedient servant,
T. HARTLEY CRAWFORD.

Major J. PLYMPTON,
Fort Snelling, Upper Mississippi.

No. 9.

HEAD-QUARTERS,
Fort Snelling, July 18, 1839.

SIR: I have the pleasure to acknowledge the receipt of your communication of the 1st ultimo, by our last mail, together with a copy of Major Taliaferro's letter, of the 19th April last, to the honorable Secretary of War.

In complying with your request, I may believe myself to be under the necessity of referring to some acts of a deceased brother officer, which, if controlled by my individual feelings, I should leave untouched at this day; some of which may appear to you as extraneous.

When the 5th United States infantry left Detroit in the spring of 1819, to establish a post at this place, Colonel Henry Leavenworth (then lieutenant colonel in command of the regiment) received several tierces of Indian goods and kegs of tobacco, of Governor Cass, with a view of securing the friendly feelings of the Indians, with whom we might meet in our route to the mouth of the St. Peter's river, and thereby establish a respectful attachment to the American Government; it being generally understood at that time that the Indians of the west and northwest were more friendly to the British Government than to our own. The principal part of the property above alluded to was brought to this place, and was, during the year Colonel Leavenworth remained in command, dealt out by himself to the Indians, as he saw fit; and it was thought at the time, by many officers, that, in thus dispensing the bounty of the Government, the Indians thereby lost sight of its primitive object, and centered their gratitude and confidence on the individual from whose hands they received the presents, instead of securing and fixing it upon the nation.

I do not wish to arraign the motives of Colonel (late General) Leavenworth, at the time of which I am speaking; for he might have supposed that, by securing to himself the respect and confidence of the Indians, he

was doing all that was expected of him by the Government in such cases, he being an organ or integral part of the Government.

Be this as it may, it was well understood at the time that frequent talks were held obscurely with certain of the Sioux Indians, during the winter of 1819-'20, and in the spring and summer season of 1820; hence followed the establishing boundaries and marks (as was understood by the officers who were not present at the talk and movements) upon both sides of the river St. Peter's.

A Canadian (J. B. Ferribault) was permitted by Colonel Leavenworth to build a cabin on Pike island, at the confluence of the St. Peter's and Mississippi rivers, he giving as a reason, at the time, for granting this indulgence, that Ferribault would at all times be found convenient as an interpreter, &c. The feelings of many of the officers, at the time, were opposed to this indulgence, believing it would prove to be the commencement of an evil.

The said Ferribault abandoned this position on the island, I think, in 1821, and erected a small log cabin, about a mile and a half below Fort Snelling, on the east bank of the Mississippi, which was carried off in a freshet in the first part of the season of 1823. He then moved his family into a log house, where he now resides, the property then of a half-blood, (Duncan Campbell,) and now attached to the cluster of buildings belonging to the American Fur Company, on the west bank of the St. Peter's, near its confluence with the Mississippi, where I believe his family has resided since that period, except when at his proper trading station, about forty-five miles up the St. Peter's river.

The island referred to in your letter is of alluvial formation, and is frequently, in the spring, overflowed. It has been used by the military, as belonging to this post, to my knowledge, from the 23d of August, 1819, to the present date; and I never knew, until within the last few months, that any individual pretended to claim this island, (named, in 1819, by the officers of the 5th infantry, Pike's island, from the ascertained fact that Pike held his first talk with the Indians, relative to a grant of land at this place, for military purposes, in 1805.)

My knowledge of this island is from the first arrival of the troops here, 23d August, 1819, till some time in July, 1821. Returned again to this post in the first part of the autumn, 1824. Left it again in June, 1826, and returned to it again in August, 1837. At all these periods I never knew any person, or authority of persons, attempt to claim or control the island, but the military, for military purposes, and sanctioned by the Government.

With a view of placing the subject before the Government in as clear a light as possible, I requested the Indian agent (Major Taliaferro) to invite to the council-house as many of the survivors who signed that reported treaty of 1820 as he could conveniently, without their suspecting what was wanted of them, that we might obtain their unsophisticated opinion of that transaction at the present day.

I therefore enclose, herewith, their answers to my questions, in the handwriting of the agent, as interpreted by S. Campbell. It is not voluminous, but sufficiently so, I presume, to convince the Government of the fallacy of the claim of Ferribault or his wife.

I also enclose to you Major Taliaferro's letter to me of the 10th instant, together with his copy of his letter to Hon. J. C. Calhoun, of 30th June, 1821, and also his certificate of reference to Mr. Calhoun's reply, a copy

of which can be found in the War Office; all of which, I presume, will be sufficient to place the subject beyond the reach even of a quibble. I find that my communication to the Adjutant General, of the 11th March last, written in the absence of Major Taliaferro from this post, and without knowing his opinion on the subject, carries with it the same sentiment that is found upon the face of all his communications.

There exists no doubt but J. B. Ferribault was an alien, and is now, so far as I know from official documents.

The Government has, since August, 1819, I think, held immediate control of this island, by its military; to the present day; during which time it has been used by the garrison for cutting fuel. It has, by the military, been built upon, and it has been planted and pastured; and to which use the latter applies at this present period.

Then, does it not follow, as matter of course, that Pike's treaty of 1805, which was recognised by the Government when the Sioux received, in August, 1819, from the Government, the amount in goods stipulated in the treaty of Pike, amounted at least to a guaranty, on the part of the Indians, to an unlimited lease to the Government of all the land embraced in said treaty, which not only includes the island, but the land where the American Fur Company now have an establishment, on the east bank of the river St. Peter's, and opposite to Pike's island?

This, I feel safe in saying, was the acknowledged opinion of the Indians when the military took possession here in 1819, and which was not only well understood, but clearly expressed by a chief, (Little Crow,) who was not only one of the principal chiefs, but in whom Pike placed great confidence, as an Indian possessing both purity of intention and energy of character.

This being established beyond controversy, what right, then, could the Indians have to make a gift or conveyance of any part of this land?

I presume the Government is aware of the \$4,000 paid the Sioux Indians at this place, last autumn, as a farther, and, as I understand, a final compensation for the country embraced in the treaty of 1805.

Procrastination, in all matters of business with Indians, is attended with ~~more~~ or less trouble.

The rising generations who grow up, and under the influence of interested persons, are apt to forget the acts of their fathers.

The energies of the Government are much wanted at and near this post, both for the peace and well-being of the military and the Indians, which has been the subject-matter of reports by me to the Adjutant General.

Very respectfully submitted by, sir, your most obedient servant,

J. PLYMPTON,

Maj. U. S. A. comm'g post.

T. H. CRAWFORD, Esq.,

Commissioner of Indian Affairs.

P. S.—Enclosed are documents from 1 to 3.

(1.)

MEETING AT THE AGENCY OFFICE,

July 12, 1839.

"Mascumpaa," war chief, and other headmen of "Little Crow's" village, being called to the agency on business, Major Plympton asked the Indians if they recollected having signed a paper in 1820, and what induce-

ments, if any offered, and by whom, for any land or tracts of land; and whether the Indians parted with or gave any lands to any persons, while Colonel Leavenworth was in command of this post?

The "Grand Soldier" said: Some years ago, at "Camp Cold Water," a paper was signed—Mr. Ferribault and Duncan Campbell present—when the Indians gave some land east of the river Mississippi to Mr. Ferribault; and other lands west and near Fort Snelling to Duncan Campbell and his sister, extending from a small creek above the American Fur Company's trading-post, down to a point below the island; but that no other lands were given, and that they never gave Pike's island to Mr. Ferribault or any other person; and if the island was put on paper, it was wrong, for nothing was given for the signing of that paper, by Mr. Ferribault or any one else.

The "Bad Hail" (a war chief) next spoke, and said:

My friends: As the subject is named, I can, perhaps, say something. He could say that Colonel Leavenworth got them (the Indians) to sign another paper to cut wood, as he said; that timber was scarce, and that what wood was on Pike's island would soon be gone, and his men would want more; and he said that, as we should always be good friends together, he wanted more land to get his wood upon.

He promised us that, as long as he had a mouthful himself, we should have a part; and that we should see the time when we should be well provided for in blankets and other things for our families.

Our people, on hearing these things, consulted together, and agreed to sign the paper for this purpose; but we did not give away any land, only the privilege to cut wood.

Nascumpaa, or the "Grand Soldier," again said:

Colonel Leavenworth called the Sioux together, and told them he was going away, and that he had a paper which he wished them to sign before Colonel Snelling should come here to relieve him, as he had then to go, and the paper they were going to sign was to get a *little more land*; and if we agreed to do it, we should see the day when we should be clothed and fed, and all live in peace and friendship together.

The paper was signed at Colonel Leavenworth's house, also at Camp Cold Water; but we never gave the island, at that time, to any one; and if you see it so on paper, we were deceived.

LAW. TALIAFERRO, *Recorder.*

The foregoing translation, as rendered by me, of the facts stated this day by the Indians, is truly rendered as literally as possible, from Indian into English; and the sentiments of the headmen, as expressed by them, have been faithfully interpreted by me, at the agency, this 12th day of July, 1839.

S. CAMPBELL.

Sworn and subscribed the day and date first before written, before me,
LAW. TALIAFERRO,
Indian Agent at St. Peter's.

(2.)

NORTHWESTERN AGENCY,
St. Peter's, Upper Mississippi, July 10, 1839.

SIR: A *fraud* having been practised upon the Senate and House of Representatives, at the instance of Samuel C. Stambaugh, as to the true

position of Ferribault's claim to Pike's island, and sustained by my letter to the honorable Secretary of War of the 19th of April past, it is not seen how the truth, in regard to this question, can be more solidly established. The *dead* should rest; but if *ashes* must be disturbed to subserve the public weal, however painful to the feelings, the name of the late General Leavenworth must again and again be used. The General first brought Mr. Jean Baptiste Ferribault, a Canadian, as you well know, to this post in 1819, to act as a kind of interpreter for his command, but ostensibly to drive cattle, &c., and finally told him to locate and introduce his family from Prairie du Chien.

In August, 1820, the General, then lieutenant colonel of the 5th infantry, deemed it convenient to overlook the extent of our military claim under Pike's treaty of 1805, and, with the aid of two or three of his *confidential officers* (Mr. Ferribault and Mr. Duncan Campbell,) entered into a convention with the neighboring bands of Sioux, which circumscribed us as to former claims, and gave the grants named to the individuals noted in my late letter to the department.

This ruinous oversight of his as to our *true wants*, in a military point of view, was, as soon as properly reflected upon, made known officially to the War Department; and a reply was returned well suited to the views of his successor, the late Colonel Snelling, who relieved the island of Mr. Ferribault's occupancy; and the annual *freshets* kept the *kite* upon the *wing* ever after, until the treaty of September the 29th, 1837, with the Sioux, had been ratified, and the *island again bought* by the *United States*; when, lo! the island, as if by *magic*, is made the property of Mrs. Ferribault.

If this be admitted, the Government *must* give the American Fur Company's trading-post to Duncan Campbell, and Mr. Scott Campbell's farm to the *heirs* of Margaret Pizarre, late Campbell. It is impossible to confirm the one without the other.

Colonel Leavenworth was furnished several *tierces* of Indian goods at Detroit, which he is known to have used with the Indians to obtain a grant of land on the St. Peter's *for his own benefit*, and did obtain it. *His heirs* know, doubtless, where the parchment is.

This transaction as to the claim of Mrs. Ferribault is one of the *most barefaced* which has ever been played off upon the representatives of a free people; and the sooner they retrace their steps and counteract the fraud designedly and insolently practised upon Congress, the better for the public service as well as for the future security of the Indian and the public lands.

Sir, I might, as you *know*, have had a grant from the Indians in the *twenty years* that I have been their agent, as extensive as the one claimed by the heirs of the late Captain John Carver; but my conscience would not permit me to *carve* into such a business.

I have no patience to continue this subject further; and therefore close this hasty letter, in the hope that *cupidity* may be defeated and the designing knaves unmasked.

Very respectfully, sir, your obedient servant,

LAW. TALIAFERRO.

To Major J. PLYMPTON,

United States army, commanding Fort Snelling.

(3.)

INDIAN AGENCY, ST. PETER'S, *June 30, 1821*;

SIR: I wish to make a few remarks as it regards the late cession of land obtained of the Indians in the neighborhood of this post, as I am of opinion that I have erred in putting my signature to an unauthorized treaty of cession. How far Colonel Leavenworth was empowered, I know not, as his appointment as a commissioner was never shown to me. If the cession of land be accepted by the Government, the President could safely approve of all the grants to the individuals named in the treaty, except that which conveys the island at the junction of the Mississippi and St. Peter's to Mrs. Ferribault; for the inconvenience resulting from such a cession is obvious to every public officer stationed in this country, and I am of opinion that General Pike certainly intended that the said island should be included in his purchase, while in this country, in 1805, as the public land extends two miles below this island, on both sides of the river.

Mr. Ferribault has made improvements on the island, and, if ousted therefrom, the Government would do him justice by reimbursing him for his expenditures.

I have made the foregoing remarks, conceiving it to be my duty as a public officer.

With much respect, sir, I am your obedient servant,

LAW. TALIAFERRO,

Indian agent at St. Peter's, Upper Mississippi.

Hon. J. C. CALHOUN,

Secretary of War, Washington City.

AGENCY HOUSE, ST. PETER'S, *July 10, 1839.*

I certify, on honor, that the foregoing letter is a true copy of the original on file in this office.

I further certify, on honor, that a reply was, in due course of mail, received from the War Office to the foregoing, from the Hon. J. C. Calhoun, then at the head of the department, in which I was directed to notify those persons claiming reservations under the convention held by Leavenworth, that these would not be considered, as the President had deemed it unnecessary to lay the treaty before the Senate.

The letter referred to *is not lost*, but, for the present, mislaid; yet a copy may be seen in the War Office, in the correspondence with this agency in 1821, while Mr. Hamilton was chief clerk.

LAW. TALIAFERRO, *Indian agent.*

No. 10.

HEAD-QUARTERS, FORT SNELLING,

September 12, 1839.

DEAR MAJOR: I received your letter of the 26th July by our last mail, and in reply to which I have to refer you to my communication to the Commissioner of Indian Affairs of the 18th July, (made to him at the request of the Secretary of War,) commencing with the fifth or sixth paragraph of said communication, which, from recollection, and all that I can learn

touching what I am left to guess to be the subject-matter of your request, is true, except that the dates given of Ferribault's leaving the island and the main shore, on the east side of the Mississippi, may vary a few months; which cannot, I suppose, be material.

I think you will readily perceive that I am left to grope in the dark, as I have never been furnished with the plea set up by Ferribault or his wife to an undisputed title to the island at the junction of the Mississippi and St. Peter's rivers.

If this claim of Ferribault's wife grows out of, or rests upon, a reported talk with some of the Sioux Indians in 1820, which, I understand, was said to have taken place at the request of Colonel (late General) Leavenworth, and which, I understood at the time, was in the presence of a chosen few, the validity of that transaction, I think, may be readily known by referring to the authority with which Colonel Leavenworth was clothed to hold conventions with the Sioux Indians to sell or give away portions of their country to individuals.

I think it may be ascertained at Washington that the administration of Mr. Monroe viewed this reported treaty of Colonel Leavenworth as an improper transaction, and, consequently, it was not presented to Congress for ratification. It is a small item, to be sure, on the roll of a great man's political events; yet it is very probable that Mr. Calhoun may have some recollection of the matter, as Secretary of War at that time.

This island was evidently included for military purposes in August, 1819; it was certainly embraced in the treaty of 1837; and in 1838 the Government paid for the use or purchase of land at this post, for military purposes, \$4,000; and now, it appears, that, subsequently to the satisfaction given to the Indians in 1819, and the purchase by treaty in 1837, an individual comes forward (and, I believe, an alien at this day) and claims the right to sell it to the Government. If Ferribault's claim to this island is confirmed by Congress, it must be since the property (I should suppose) was the Government's, and to which, and in fact, was the first and only authorized conveyance which the Indians made of this island.

These, then, are many of my strong presumptive reasons for saying to the Adjutant General, in my letter of the 11th of March, 1838, that I thought the Government was buying some of its own property, but hoped I was mistaken. The Indian agent (Major Taliaferro) informs me that Ferribault says it was at the particular request of Colonel Leavenworth that he sold his property at Prairie du Chien, and came and settled himself here in 1819 and 1820. If the Government grant this (Pike's) island to J. B. Ferribault upon what may have been done at this post in 1820, I apprehend that a principle thereby will be established, upon which claims will be presented covering a great portion of what is now considered reserved for military purposes at this post. It appears that Colonel Leavenworth held his last talk or convention with the Sioux Indians at St. Peter's, in August, 1820, at which time I was absent on a general court martial at Fort Crawford, Prairie du Chien. On my return, in the month of September following, it was frequently remarked that the Indians had, at the request of Colonel Leavenworth, made grants of land in this vicinity to various individuals, viz: Duncan Campbell, Margaret Campbell, and Pelagie Ferribault, and also to Colonel Henry Leavenworth. The report soon died away, as Colonel Snelling had arrived and relieved Colonel Leavenworth in the command of the regiment and post, who immediately left; and no one believed, who was

in a rational state of mind, that whatever had been done at this reported convention in August would be countenanced by the Government; more particularly as we had never seen the authority which invested Colonel Leavenworth with the power to treat with the Indians for the purchase or giving away any part of their country to private individuals, knowing that unauthorized treaties, made by individuals with the Indians, were contrary to law.

The Indians, so far as I have been able to see them, (signers of a certain paper at the request of Colonel Leavenworth, in August, 1820,) disavow any knowledge of the island being spoken of at that or any other period; that if it is found named in the paper which they signed at that time, it was put in without their consent or knowledge; but recollect, distinctly, that the main shore opposite was what was asked for and given by them. I presume the Government is aware that this family of Ferribault received last year, for having Indian blood in them, some seven or ten thousand dollars out of the one hundred and ten thousand dollars named in the treaty of 1837 for that purpose.

Having referred you to my communication to the Commissioner of Indian Affairs of the 18th of July last, I will offer a few more remarks: that, if the Government sanction the practice of the Indians giving their land to individuals, much of the public domain now in the Indian country will be proved to belong to aliens and other transient persons who may pass through the Indian country.

I have supposed, for years, that all the Indian country within the limits of the United States belongs to the Government by conquest, and that the Indians occupy portions of it by the tenure of an unlimited lease; and when the Government treat with them for certain portions of their country, it is to purchase the residue or unexpired term of the lease. I beg to be excused for the remarks I have made in this hasty answer to your letter, which may appear to you in the shape of offered opinions, but which are not offered in that spirit, but have grown out of my knowledge of the arrogance of aliens and other irresponsible borderers, so frequently manifested in the Indian country.

I am, very sincerely, yours, &c.

J. PLYMPTON,

Major U. S. Army, commanding post.

Major S. COOPER,

Asst. Adj. Gen. U. S. Army, &c., Washington.

No. 11.

GADSBY'S, *January 17, 1838.*

SIR: I respectfully present you with a brief statement of the claim of Pelagie Ferribault to the island at the junction of the Mississippi and St. Peter's rivers, in the vicinity of Fort Snelling. The original grant, signed by the Sioux chiefs, in the presence and with the approbation of Colonel Leavenworth, commanding the post, the Indian agent, and others, dated August 9, 1824, was laid before you at the Sioux council in October last. It is in the following words:

"Also we do hereby reserve, give, grant, and convey, to Pelagie Ferribault, wife of John Baptiste Ferribault, and to her heirs forever, the island at the mouth of the river St. Pierre, being the large island containing, by estimation, three hundred and twenty acres, and is the same island which is surrounded by the water of the Mississippi when that stream is higher than the river St. Pierre, and by the water of the said river St. Pierre when that stream is higher than the Mississippi : the said Pelagie Ferribault being the daughter of Francis Kinie by a woman of our tribe."

By a reference to the original paper, you will perceive that this deed of gift and conveyance was made in the presence of all the officers of the United States Government, exercising power and jurisdiction over that point at the time, who gave it their sanction.

Mr. Ferribault, the husband of Pelagie, had previously occupied and improved part of the island, under a gift made in the usual way by the Indians to their traders and first settlers among them, which custom was sanctioned by the Governments of France and England ; and, in the treaty between America and England in 1794, the latter had the situation of this class of persons so much at heart, as to induce her to insert the following clause in that treaty : "*All settlers and traders, within the precincts and jurisdiction of military posts in the Northwestern territory, shall continue to enjoy unmolested all their property of every kind, and shall be protected therein.*" It is, however, I am sure, useless to cite precedents to satisfy you of the justice of Madame Ferribault's claim to this island, because the frequent action of Congress, in similar cases, has established it as the approved and settled policy of the Government to reward settlers of this kind by a donation of the lands cultivated, even if no gift or conveyance of them had previously been made by the Indians. This class of settlers know nothing of speculation ; they only claim so much as is necessary for cultivation.

But the question now before you is, whether Ferribault's claim to the island should not be extinguished, for the purpose of annexing it to the military reservation of Fort Snelling. It is the decided opinion of all who know any thing about the location, and feel at all interested upon the subject, that it should belong to the United States for military purposes, so long as a garrison is maintained at that post. The head of the island is separated from the walls of the fort by a small slough, about fifty yards in width. This slough or natural canal unites a small portion of the waters of the Mississippi and St. Peter's, about three fourths of a mile above the main junction of the two rivers. Thus, by damming this slough, or throwing a wall across it at both ends, the island can be made a part of the main land on the west side of the river, and will form an immediate connexion with the Indian country. If, therefore, it would become part of the public domain otherwise than for military purposes, it will be immediately settled upon by citizens as the most prominent *town site* at the head of steamboat navigation ; the east side of the river, or United States purchase, being high bluffs in the vicinity, affording no site for that purpose. Hence, a reservation of the island would go far to prevent the introduction of whiskey among the troops and the Indians, the latter of whom encamp on the island, and close to it on the banks of the St. Peter's, when they visit the agency.

I am authorized by Mr. Ferribault to make any arrangement with the Government, concerning it, that I may deem just and right ; in pursuance whereof I now offer it for twelve thousand dollars. Upon inquiry you will learn that, if brought into market, laid out as a town, it would sell for ten

times that sum, as there is no location to compare with it in value at or near the head of steamboat navigation on the Mississippi river. Ferribault, however, will be satisfied with the sum I have proposed, and will feel grateful should such an arrangement be effected.

I will only add that the Ferribault family is the most powerful and influential among the Sioux Indians. He is a very respectable old man, a Frenchman, and has resided among that tribe *forty-two years*. It is families of this description who do much good or much evil among the Indians, with whom they are connected by bonds of blood; and Government would save much blood and treasure, if proper pains were taken to secure their friendship. His children are all well educated, and can be made of immense service in our future relations with the tribes on that frontier. As two of his sons accompanied the delegation to this place last summer, and no notice was taken of them in the treaty, (although it was the intention of the tribe to do so when the delegation left home,) considerable dissatisfaction was manifested when they left here, as I presume is known to you. I think the arrangement I propose will conciliate them, as the money will be a great object to them at this time; and of the great importance of the purchase to Government I am well convinced, or I assuredly would not urge it.

I am, very respectfully, your friend and obedient servant,

S. C. STAMBAUGH.

Hon. J. R. POINSETT,

Secretary of War.